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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,414	06/17/2005	Othon Kamariotis	36-1908	2360
23117 7590 06/07/2010 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER WERNER, DAVID N				
ART UNIT		PAPER NUMBER		
2621				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/539,414

**Applicant(s)**

KAMARIOTIS, OTHON

**Examiner**

David N. Werner

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 14-21 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB06)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date \_\_\_\_\_
- 6) ☐ Other: \_\_\_\_\_
- 7) ☐ Notes of Informal Patent Application
- 8) ☐ Paper No(s)/Mail Date 20100218

### **DETAILED ACTION**

1. This Office action for U.S. Patent Application No. 10/539,414, is responsive to communications filed 18 February 2010, in reply to the Non-Final Rejection of 8 August 2009. Claims 1–9 and 14–21 are pending.
2. In the previous Office action, the IDS was objected to as incomplete. The drawings were objected to as not illustrating references signs alluded to in the specification. The specification was objected to for improper trademark use. Claims 1–9 were rejected under 35 U.S.C. § 101 as non-statutory. Claims 1–9 and 14–21 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent Application Publication No. 2002/0092029 A1 (*Smith*). Claims 10–13 were rejected under 35 U.S.C. § 103(a) as obvious over *Smith* in view of European Patent Application Publication 898,405 A2 (*Suso*).

### ***Drawings***

3. Applicant's drawings filed 18 February 2010 have been fully considered and are acceptable.

### ***Response to Amendment***

4. Applicant's amendments to the specification have been fully considered and are acceptable.

5. Applicant's amendments to the claims have been fully considered by are not sufficient to overcome the rejections under 35 U.S.C. § 101.

### ***Response to Arguments***

6. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. It is respectfully submitted that U.S. Patent Application Publication No. 2003/0027566 A1 (*Weiner*), ¶ 0045, specifically recites a user requesting "video", asking for data to be zoomed, and receiving a section of the picture. Since *Weiner* expressly recites performing this process on "video", this cures Applicant's alleged deficiency with *Smith* in that *Smith* only works with still image data, not video frames.

### ***Specification***

7. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Objections***

8. Claim 1 objected to because of the following informalities: the phrase in line 18 "frame sin" should be "frames in". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims 1–9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Although the preamble of Claim 1 recites "using a video server to effect" the steps of the claimed method, a claim preamble is not given any patentable weight. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hira*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). In this particular case, the claimed method is not limited to the "server", but may also be performed by another client device in a decentralized peer-to-peer system. For the claimed method to be tied properly to a "server", the server must be actively claimed as performing the claimed steps within the body of the claim.

#### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1–9 and 14–21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0092029 A1 (*Smith*) in view of U.S. Patent Application Publication No. 2003/0027566 A1 (*Weiner*). *Smith* teaches a system for transmitting images from a server to a portable device, or the claimed "client". Regarding Claim 1, in *Smith*, a server stores an image at original size. *Smith*, ¶ 0013. This is the claimed step of storing an original video frame of size  $m \times n$  pixels. The server crops the image to fit the shape of the client mobile device's display and downscales it for appropriate display on transmittal to the mobile device. *Id.* This is the claimed step of compressing the  $m \times n$  frame to a substantially smaller  $p \times q$  size frame and transmitting it. On receiving the transmitted downscaled picture, a user may select an area of the picture for zooming. *Id.* at ¶ 0015. The selected area is the claimed preferred location within the  $m \times n$  frame of the selected viewing area. The processing for zooming does not occur in the device, but rather, dynamically over the network, allowing the server to do the processing, similar to an online map service. *Id.* at ¶ 0017.

The present invention differs from *Smith* in that in the present invention, the selection for a preferred viewing area is continued for subsequent frames within a video sequence. *Smith*, in contrast, discloses presenting multiple frames, such as thumbnails (¶ 0019), but these are distinct still images that may not be part of a unitary video sequence.

*Weiner* discloses a multimedia content delivery system to a mobile phone. Regarding Claim 1, in *Weiner*, mobile handset 10 contains a screen having a set size

and resolution. *Weiner*, ¶ 0045. If the server 20 attempts to transmit an image, including a "picture" image or a "video" image to the handset, the user of the handset may ask for the image to be zoomed. *Id.* Upon receiving this request, the server zooms the image, incorporating "video" images. *Id.*

*Smith* discloses the claimed invention except for retaining a user-selected zoom level for video. *Weiner* discloses that it was known to perform a process similar to the still-picture zoom over a client/server system in *Smith* for video images. In this case, the *Smith* still image system is considered a base device in which the claimed video system may be seen as an improvement. The *Weiner* system that is operable both on still and video images is considered a comparable device not the same as the base device that has been improved in the same way as the present invention: the achievement of operability of the zoom processing on video images. Therefore, since one of ordinary skill in the art at the time of the invention could have applied the known improved technique in the same way to the base system to achieve the predictable result of imparting the additional utility of being able to process a zoom request for images in a video sequence interactively over a network, the claimed subject matter is considered obvious over the prior art. *Ruiz v. AB Chance Co.*, 357 F.3d 1270, 1277 (Fed. Cir. 2004), *In re Nilseen*, 851 F.2d 1401–03 (Fed. Cir. 1988).

Regarding Claim 2, figure 3 of *Smith* shows the relationship 33 between the original image and the zoomed image. *Smith*, ¶ 0015. This is the claimed "zoom level".

Regarding Claim 3, in *Smith*, a cursor may be used in the mobile device to select a center point for zooming. *Smith*, ¶ 0015. This is the claimed pixel-by-pixel selection of a position.

Regarding Claim 4, in *Smith*, scrolling through the thumbnails (¶ 0020) is the claimed movement of frames at the frame level.

Regarding Claims 5 and 6, in *Smith*, a predictive algorithm is used to determine what areas a user may wish to view in an image, and begins transmitting data in these areas prior to transmitting other data. *Smith*, ¶ 0018. These areas of high probability are the claimed plurality of frame sizes of Claim 6, detected automatically as in Claim 5.

Regarding Claim 7, figure 2 of *Smith* illustrates the claimed process of moving to new positions in the frame and changing frame sizes, here, three progressive zooms each having a different center.

Regarding Claim 8, in figure 2 of *Smith*, the selection of different frame areas according to cursor position (¶ 0015) is the claimed selection via a jump function that selects frame areas depending on pointer position.

Regarding Claim 9, in *Smith*, a "pan" function (¶¶ 0017, 0018) is the claimed pixel-by-pixel scrolling function.

Regarding Claim 14, in *Smith*, the remote server that stores images (¶ 0013) is the claimed server having access to a plurality of video stores. Since the server crops and rescales pictures for transmission to the mobile device (*Id.*), when modified to operate of video data in addition to or instead of still image data as in *Weiner*, the server

is considered to comprise the claimed compression means. The screen on the mobile device in *Smith* is the claimed screen in the client device capable of displaying a small p x q image. The user interface in the mobile device (§ 0017) produces the claimed "data signals" that determined preferred locations in frames, including video frames as in § 0045 of *Weiner*.

Regarding Claim 15, in *Smith*, the area determined by the auto-pan function to have a high probability of interest (§ 0018) is the claimed "selected area" at a certain position at which the user indicated interest. Regarding the claimed additional limitation of the "camera" in the server, it is noted that a server including a camera capturing live video was known at the time of the invention. See "The Life and Times of the First Web Cam: When Convenience was the Mother of Invention", *Comm. of the ACM July 2001*.

Regarding Claims 16 and 17, § 0022 describes an environment in which the *Smith* image transmission system may be used with a plurality of stored images that may be transmitted to a plurality of users.

Regarding Claim 18, in *Smith*, the four thumbnails visible at once and available for selection comprise the claimed "plurality of frames" simultaneously available to switch means.

Regarding Claim 19, *Smith* preferably operates on JPEG images. *Smith*, § 0021. This is the claimed "codec".

Regarding Claim 20, in *Smith*, a user selects a single image for a full view from a series of thumbnails for transmission. *Smith*, § 0020. Then, sending the image as

requested by the user is the claimed transmission of a selected bitstream responsive to customer data input.

Regarding Claim 21, figure 2 of *Smith* illustrates a process of a user selecting a part of the original image for detailed viewing and receiving a zoomed-in view of the desired area from the server in response.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David N. Werner whose telephone number is (571)272-9662. The examiner can normally be reached on Monday-Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. N. W./  
Examiner, Art Unit 2621

/Mehrdad Dastouri/  
Supervisory Patent Examiner, Art Unit 2621